

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



**CORRECTED
FISCAL MEMORANDUM**

HB 2146 – SB 2133

June 17, 2009

SUMMARY OF AMENDMENTS (010187, 010163, 010200, 010164):

Amendment 010187 deletes all language after the enacting clause of the original bill. Sections 1, 9, and 10 change from five to ten, the number of years that a charter school is initially chartered and the charter renewed. Section 2 makes students on free or reduced price lunch who are enrolled in an a local education agency (LEA) with an average daily membership (ADM) of 14,000 or greater and have three or more schools that have missed the same adequate yearly progress (AYP) benchmark for two or more years resulting in these schools being designated high priority schools. Authorizes LEAs by two-thirds majority vote to permit all students eligible for free and reduced lunch to attend a charter school. Section 3 deletes the use of priority status for some classifications of eligible students and the 25 percent enrollment cap in grades K-3 who are on free or reduced price lunch. Section 4 makes a technical change to Tenn. Code Ann § 49-13-102 by deleting the language “as provided for in § 49-13-106(a)(2).” Section 5 makes a technical change to Tenn. Code Ann. § 49-13-106(b)(2)(B) by deleting the language “subdivisions (a)(1) or (2)” and substituting “subdivision (a)(1)(B).” Section 6 declares that the current cap of 50 charter schools does not apply to regular public schools that are converted to charter schools. Section 7 makes a technical change to Tenn. Code Ann. substituting the language “§ 49-13-106(b)(1)” for § 49-13-106(B)(1)(C). Section 8 requires local boards of education to allocate all applicable federal, state, and local funding and requires such funding be distributed on a per pupil basis. This funding includes Basic Education Program (BEP) capital outlay funding. Prohibits LEAs from charging an administrative fee. Authorizes the Department of Education to make rules and regulations for the distribution of funding. Section 11 requires that a charter school application contain a report of the school’s operations, including students’ standardized test scores, financial statements, and audits from the last nine years preceding the charter renewal application. Authorizes the DOE to make rules and regulations to govern the charter school application renewal process.

Section 12 requires that an interim charter school review take place in the fifth year of the initial period of operation and each subsequent renewal term. Section 13 requires the DOE to identify and disseminate to all regular public schools the best practices of charter schools.

Section 14 authorizes the Commissioner of Education to convert a regular school in the fifth year of restructuring per NCLB guidelines to a charter school. Authorizes the DOE to be a chartering authority. Section 15 authorizes the Commissioner of Education to adopt a timeline for the application process of these conversions. Section 16 requires each charter school to report other revenue sources other than state, local, and federal.

Section 17 requires that any costs associated with implementing this act shall be paid from existing funds.

Amendment 010163 requires that the Department of Education develop a student tracking system for students in charter schools. This system will track when and why students leave charter schools. A report on how students leaving charter schools affect funding will be made the Education Committees of the General Assembly by October, 1, 2009.

Amendment 010200 changes from 50 to 90, the cap on the number of charter schools statewide. Changes from 20 to 35 the cap on charter schools that may be opened in Memphis City Schools. Limits the number of charter schools that may be opened in Metro-Davidson County Schools to 20. Limits the number of charter schools opened exclusively for the reenrollment of high school students who have previously dropped out to three statewide with no more than one created per LEA. Such charter schools shall not be counted against the cap.

Amendment 010164 encourages LEAs to use federal funding to establish non-charter public schools.

FISCAL IMPACT OF ORIGINAL BILL:

(CORRECTED)

Increase State Expenditures – \$27,000

Other Fiscal Impact – More regular public school students not eligible under current guidelines will be eligible to transfer into a public charter school. BEP money follows the student. BEP funds will shift from local education agencies (LEAs) to public charter schools in an amount dependent upon the number of students choosing to enroll in a charter school, the capacity of the charter school, and the number of open enrollment slots.

Charter schools are currently funded on a per-pupil basis. The BEP is funded on an average daily membership (ADM) basis. The amount of money that the BEP generates and the LEA matches is less than the per pupil expenditure that is given to the public charter school.

The average difference between the LEA amount that would be funded on a per pupil basis and what the BEP funds per ADM for 19 LEAs that are close to or above 12,000 ADM is \$1,700. Local governments will be required to fund the difference. If two percent of the total ADM of those LEAs (17) that do not currently contain charter schools transfer into a new charter school, the increase in local expenditures will be approximately \$12,976,900. There will also be a net increase in local expenditures as students transfer into a charter school for fixed LEA regular operational costs for building maintenance, electricity, etc. These costs are estimated to exceed \$1,000,000. Therefore the total increase in local expenditures statewide is expected to exceed \$14,000,000.*

The fixed cost increase is a net of any savings from fewer students in regular public schools.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:

On June 17, we issued a fiscal memorandum for this bill indicating a fiscal impact of increase state expenditures – not significant. Other Fiscal Impact – More regular public school students not eligible under current guidelines will be eligible to transfer into a public charter school. BEP money follows the student. BEP funds will shift from local education agencies (LEAs) to public charter schools in an amount dependent upon the number of students choosing to enroll in a charter school, the capacity of the charter school, and the number of open enrollment slots. As eligibility expands, more charter schools will open in the 2010-11 school year (SY) and subsequent years in those LEAs that do not currently have them. It is unknown how many charter schools will open in SY10-11 and subsequent years. Existing charter schools and those already scheduled to open in SY09-10 will not have their funding arrangements altered. LEAs falling under the student population and AYP requirements that will not have charter schools in SY09-10 school year are Knox County, Sumner County, and Williamson County. LEAs currently with charter schools or opening one in SY09-10 that are over 14,000 ADM and meet the other requirements are Memphis City, Hamilton County, and Davidson County. Charter schools are currently funded on a per-pupil basis. The BEP is funded on an average daily membership (ADM) basis. The amount

of money that the BEP generates and the LEA matches is less than the per pupil expenditure that is given to the public charter school. The average difference between the BEP generated amount and the per pupil amount given to the three LEAs that are at or above 14,000 ADM, do not currently have charter schools, and meet the adequate yearly progress requirements is approximately \$1,700 per student per year. If two percent of total ADM of those LEAs that do not currently contain charter schools transfer into a new charter school, the increase in local expenditures will be approximately \$3,733,000 over time beginning in FY10-11 and subsequent years. There will also be a net increase in local expenditures as students transfer into a charter school for fixed LEA regular operational costs for building maintenance, electricity, etc. These costs are estimated to exceed \$1,000,000 over time beginning in FY10-11 and subsequent years. The total increase in local expenditures statewide is expected to exceed \$4,733,000 over time beginning in FY10-11 and subsequent years. The fixed cost increase is net of any savings from fewer students in regular public schools. The increase in local expenditures for LEAs below 14,000 ADM that vote to permit all students on free or reduced price lunch to attend a charter school is permissive. Such a cost cannot be reasonably quantified and is dependent upon the number of LEAs who adopt this policy, the number of students becoming eligible, and the open capacity of charter schools.*

If local governments use existing funding for charter schools, they will shift money away from another use. It is assumed that there will not be a decrease in local services and that expenditures will increase to maintain these other services. According to the Tennessee Department of Education, the state will receive some competitive American Recovery and Reinvestment Act (ARRA) grant funding without regard to whether this bill or other charter school legislation is enacted. The criteria for these grants have not been released and application for the grants has not been made. It is unknown whether passage of this amendment or other charter school legislation will have any impact on the amount of funding received by the state for these grants.

The summary for Amendment 010164 was incorrect and has been changed. The fiscal impact as amended is unchanged.

Increase State Expenditures – Not Significant

Other Fiscal Impact – More regular public school students not eligible under current guidelines will be eligible to transfer into a public charter school. BEP money follows the student. BEP funds will shift from local education agencies (LEAs) to public charter schools in an amount dependent upon the number of students

choosing to enroll in a charter school, the capacity of the charter school, and the number of open enrollment slots. As eligibility expands, more charter schools will open in the 2010-11 school year (SY) and subsequent years in those LEAs that do not currently have them. It is unknown how many charter schools will open in SY10-11 and subsequent years.

Existing charter schools and those already scheduled to open in SY09-10 will not have their funding arrangements altered.

LEAs falling under the student population and AYP requirements that will not have charter schools in SY09-10 school year are Knox County, Sumner County, and Williamson County. LEAs currently with charter schools or opening one in SY09-10 that are over 14,000 ADM and meet the other requirements are Memphis City, Hamilton County, and Davidson County.

Charter schools are currently funded on a per-pupil basis. The BEP is funded on an average daily membership (ADM) basis. The amount of money that the BEP generates and the LEA matches is less than the per pupil expenditure that is given to the public charter school.

The average difference between the BEP generated amount and the per pupil amount given to the three LEAs that are at or above 14,000 ADM, do not currently have charter schools, and meet the adequate yearly progress requirements is approximately \$1,700 per student per year. If two percent of total ADM of those LEAs that do not currently contain charter schools transfer into a new charter school, the increase in local expenditures will be approximately \$3,733,000 over time beginning in FY10-11 and subsequent years. There will also be a net increase in local expenditures as students transfer into a charter school for fixed LEA regular operational costs for building maintenance, electricity, etc. These costs are estimated to exceed \$1,000,000 over time beginning in FY10-11 and subsequent years. The total increase in local expenditures statewide is expected to exceed \$4,733,000 over time beginning in FY10-11 and subsequent years.*

The fixed cost increase is net of any savings from fewer students in regular public schools.

The increase in local expenditures for LEAs below 14,000 ADM that vote to permit all students on free or reduced price lunch to attend a charter school is permissive. Such a cost cannot be

reasonably quantified and is dependent upon the number of LEAs who adopt this policy, the number of students becoming eligible, and the open capacity of charter schools.

If local governments use existing funding for charter schools, they will shift money away from another use. It is assumed that there will not be a decrease in local services and that expenditures will increase to maintain these other services.

According to the Tennessee Department of Education, the state will receive some competitive American Recovery and Reinvestment Act (ARRA) grant funding without regard to whether this bill or other charter school legislation is enacted. The criteria for these grants have not been released and application for the grants has not been made. It is unknown whether passage of this amendment or other charter school legislation will have any impact on the amount of funding received by the state for these grants.

Assumptions applied to amendments:

- There are 11 LEAs with an ADM of 14,000 or more. Four of those with three or more schools in NCLB corrective action year 3 or above. Three LEAs, Memphis City, Hamilton County, and Davidson County, currently contain charter systems that are at or close to capacity. For this reason, their ADM is not used in the calculation.
- Charter schools are funded on a per pupil basis. The BEP formula is based upon a system-level ADM. Because the BEP funds are based upon a step system, an LEA's student population must increase in the increments mandated within the BEP formula in order for the LEA to receive additional funding.
- Charter school students are counted for the purposes of ADM, therefore money shifting from the LEA to the public charter school is not replaced by the BEP. Certain fixed costs associated with a school system will continue to be funded.
- The exact amount of replacement money is unknown and is dependent upon the annual number of charter school students, the amount of per pupil expenditure received by the charter school, the ADM of the district in a given year, and whether or not the LEA is providing transportation and capital outlay expenditures for charter schools students.
- There may be a decrease in LEA expenditures as a result of students leaving the regular system, if the LEA is able to reduce fixed costs. This amount is not able to be quantified.

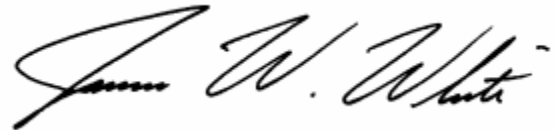
- Currently, LEAs are making up the cost difference between the per pupil expenditures that are transferring and the cost to fund a regular public school classroom.
- The average increase in local expenditures for systems with an ADM of 14,000 or more, meet other eligible standards, and do not have a charter school is \$1,674 per ADM.
- Currently, the average number of ADM in charter schools versus the total system-wide ADM is two percent. Two percent of eligible systems' students that do not have charter schools under this bill is approximately 2,230. Total increase in cost for these systems if two percent of their ADM transferred to a charter school is estimated to be \$3,733,020 ($\$1,674 \times 2,230$) over time beginning in FY10-11 and subsequent years.
- Fixed LEA operational costs will be maintained. Such costs cannot be reasonably quantified but are estimated to exceed \$1,000,000 over time beginning in FY10-11 and subsequent years.
- Converted regular public schools per Section 14 will be funded on a per pupil basis, just like charter schools that are founded through the normal application process. Therefore, there will be a shift in federal, state, and local expenditures to the charter school. Such a shift is not able to be quantified and is dependent upon how many regular public schools are converted in a school year. Money shifting from the LEA to the converted charter school will be made up in similar to regular charter schools.
- Total net increase in local expenditures will exceed \$4,000,000 over time beginning in the FY10-11 and subsequent years.
- Any increase in local expenditures as a result of an LEA school board voting to permit all students on free or reduced price lunch to attend a charter school will be permissive.
- Currently planned charter school grade expansions and new charter school openings for SY09-10 will take place in the absence of this bill.
- Making more regular K-12 public school students eligible to attend charter schools will not increase the number of available slots.
- Removing the cap on the number of charter schools that may be opened will not cause more charter schools to open or change application requirements until the current cap of 50 schools is reached.
- The basic charter school application process will not change, though a new authorization body would be eligible to review applications. Applications for SY10-11 must be submitted by October 1, 2009.
- Though charter schools must currently apply for a charter amendment from the governing LEA to increase enrollment capacity, a charter amendment is not required to lower enrollment capacity. Therefore, a charter school's capacity could be limited by the teaching structure of the school instead of physical space available.

- There are currently 16 charter schools in Tennessee with six more slated to open in SY09-10.
- No impact on the BEP formula.
- No increase in state or local expenditures as a result of raising the cap on the number of charter schools that may be opened.
- Encouraging LEAs to open charter schools with federal funding will not have a fiscal impact on local government.
- Any increase in state expenditures to implement a tracking system for charter school students is estimated to be not significant.

*Article II, Section 24 of the Tennessee Constitution provides that: *no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, reading "James W. White". The signature is fluid and cursive, with the first name "James" written in a larger, more prominent script than the last name "White".

James W. White, Executive Director

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